

THE FATAL ACCIDENTS ACT

[1845.]

Cap. 125
Law
17 of 1955.
Act
23 of 1979.

1. This Act may be cited as the Fatal Accidents Act. Short title.
- 2.—(1) In this Act— Interpreta-
tion.
- “benefit” means any benefit or sum of money paid or payable by a friendly society or a trade union for the relief or maintenance of a member’s dependants and includes a return of contributions; 23/1979
S. 2.
- “child” includes son and daughter, and grand-son and grand-daughter, and step-son and step-daughter;
- “insurance money” means any sum payable in conformity with the National Insurance Act or under a contract of assurance or insurance whether made before or after the 7th day of September, 1979, and includes a return of premiums; 23/1979
S. 2.
- “near relations” in relation to a deceased person, means the wife, husband, parent, child, brother, sister, nephew or niece of the deceased person;
- “parent” includes father and mother and grand-father and grand-mother, and step-father and step-mother;
- “pension” includes a return of contributions and any payment of a lump sum in respect of a person’s employment; 23/1979
S. 2.
- “person” shall apply to bodies politic and corporate;
- “personal representative”, in relation to a deceased person means the executor or administrator of the deceased person; 23/1979
S. 2.

(2) For the purposes of this Act a person shall be deemed to be the parent or child of the deceased person notwithstanding that he was only related to him illegitimately; and accordingly in deducing any relationship which under the provisions of this Act is included within the meaning of the expressions "parent" and "child" any illegitimate person shall be treated as being, or as having been, the legitimate offspring of his mother and reputed father.

Action maintainable against person causing death through neglect, etc.

3. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action, and recover damages in respect thereof, then and in every such case the person who would have been liable, if death had not ensued, shall be liable to an action for damages notwithstanding the death of the person injured and although the death shall have been caused under such circumstances as amount in law to felony.

Mode and manner of commencement of an action and assessment of damages.

4.—(1) Any action brought in pursuance of the provisions of this Act shall be brought—

- (a) by and in the name of the personal representative of the deceased person; or
- (b) where the office of the personal representative of the deceased is vacant, or where no action has been instituted by the personal representative within six months of the date of death of the deceased person, by or in the name of all or any of the near relations of the deceased person,

and in either case any such action shall be for the benefit of the near relations of the deceased person.

(2) Any such action shall be commenced within three years after the death of the deceased person or within such

longer period as a court may, if satisfied that the interests of justice so require, allow.

(3) Only one such action shall be brought in respect of the same subject matter of complaint.

(4) If in any such action the court finds for the plaintiff, then, subject to the provisions of subsection (5), the court may award such damages to each of the near relations of the deceased person as the court considers appropriate to the actual or reasonably expected pecuniary loss caused to him or her by reason of the death of the deceased person and the amount so recovered (after deducting the costs not recovered from the defendant) shall be divided accordingly among the near relations.

(5) In the assessment of damage under subsection (4) the court—

- (a) may take into account the funeral expenses in respect of the deceased person, if such expenses have been incurred by the near relations of the deceased person;
- (b) shall not take into account any insurance money, benefit, pension, or gratuity which has been or will or may be paid as a result of the death;
- (c) shall not take into account the remarriage or prospects of remarriage of the widow of the deceased person.

5. In every such action the plaintiff on the record shall be required, together with the statement of claim, to deliver to the defendant, or his solicitor, full particulars of the person or persons for whom, and on whose behalf, such action shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Plaintiff to deliver full particulars of the persons for whom damages claimed.